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DEPARTMENT OF TRANSPORTATION

TITLE VI PLAN

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TABLE OF CONTENTS

TITLE VI POLICY STATEMENT AND ASSURANCES ..... -i-

I. OVERVIEW
PURPOSE ..... -1-
APPLICATION ..... -1-
AUTHORITIES ..... -1-
MONTANA DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE RESPONSIBILITIES REQUIRED BY 23 CFR, PART 200 ..... -1-
CRB TITLE VI COORDINATOR RESPONSIBILITIES ..... -2-
GENERAL PROGRAM AREA RESPONSIBILITIES ..... -2-

II. SPECIFIC AREA RESPONSIBILITIES
TRANSPORTATION PLANNING DIVISION ..... -4-
Public Involvement Unit ..... -4-
Transit Section and Special Studies Section ..... -5-
Community Transportation Enhancement Bureau ..... -6-
ENGINEERING DIVISION ..... -6-
Preconstruction Bureau Consultant Selection Procedures ..... -6-
Right-of-Way Bureau ..... -7-
Research Management Unit ..... -8-
Construction Bureau ..... -9-
ENVIRONMENTAL SERVICES ..... -10-
MAINTENANCE DIVISION ..... -11-
ADMINISTRATION DIVISION ..... -12-
Accounting Services Bureau ..... -12-
Fuel Tax Administration and Management Bureau ..... -12-
Purchasing Services Bureau ..... -13-
MOTOR CARRIER SERVICES DIVISION ..... -13-
HUMAN RESOURCES DIVISION ..... -14-
Organizational Development Bureau ..... -14-
Civil Rights Bureau ..... -14-
Disadvantage Business Enterprise Program ..... -14-
AERONAUTICS DIVISION ..... -15-
DISTRICT RESPONSIBILITIES ..... -15-

III. TITLE VI COMPLAINT PROCEDURES
Procedures ..... -18-
Title VI Complaint Form ..... -19-

IV. STANDARD DOT TITLE VI ASSURANCES
TITLE VI ASSURANCES ..... -21-
Appendix A ..... -24-
Appendix B ..... -26-
Appendix C ..... -28-

TABLE OF CONTENTS

V. 23 CFR - PART 200 TITLE VI PROGRAM AND RELATED STATUTES IMPLEMENTATION AND REVIEW PROCEDURES
Authority: ..... -31-
Source: ..... -31-
§200.1 Purpose: ..... -31-
§200.3 Application of this part ..... -31-
§200.5 Definitions ..... -31-
§200.7 Federal Highway Administration Title VI Policy ..... -34-
§200.9 State Highway Agency Responsibilities. ..... -34-
§200.11 Procedures for processing Title VI reviews. ..... -37-
§200.13 Certification acceptance. ..... -37-

VI. IMPACTS OF THE CIVIL RIGHTS RESTORATION ACT OF 1987 ON FHWA PROGRAMS
PURPOSE ..... -37-
BACKGROUND ..... -37-
GUIDANCE ..... -37-
ACTION REQUIRED ..... -37-

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TITLE VI POLICY STATEMENT AND ASSURANCES

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall on the grounds of race, color, or national origin be discriminated against under any program or activity receiving federal financial assistance. A prohibition against discrimination on the grounds of sex is included by amendment. The Title VI Program also refers, where appropriate, to other federal civil rights statutes. The State of Montana through its Constitution, codes and rules forbids discrimination in many areas.

The Montana Department of Transportation (MDT) ensures that no person shall, as provided by federal and state civil rights laws, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity. MDT further ensures every effort will be made to ensure non-discrimination in all programs and activities, whether those programs and activities are federally funded or not.

In the event MDT distributes federal-aid funds to another governmental entity, MDT will include Title VI language in all written agreements and will monitor for compliance.

MDT's Civil Rights Bureau is responsible for initiating and monitoring Title VI activities, preparing required reports and affiliated responsibilities as required by 23 CFR 200.

Marvin Dye, Director

JULY 1, 1998
Revision Date

I. OVERVIEW

A. PURPOSE

To provide guidelines for:

1. Implementing the Federal Highway Administration Title VI compliance program under Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations, and

2. Conducting Title VI program compliance reviews.

B. APPLICATION

The provisions of this Title VI Plan apply to all recipients of federal assistance with and through MDT. A recipient includes any public or private entity or any individual receiving the benefits of any federal-aid highway assistance program and to all phases of MDT operations.

C. AUTHORITIES

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d-4; Title VII of the Civil Rights Act of 1964, 42 U.S.C 3601-3619; 42 U.S.C. 4601 to 4655; 23 U.S.C. 109h; 23 U.S.C. 324.

Other federal statutes with related authority which may apply:

Title VII of the 1964 Civil Rights Act as amended;
Age Discrimination in Employment Act (45 CFR 90)
The Americans With Disabilities Act of 1990
The Environmental Justice Act of 1994.
Civil Rights Restoration Act of 1987

Applicable State non-discrimination statutes include:

The Montana Human Rights Act, Title 49, Chapter 2, M.C.A., and
Governmental Code of Fair Practices, Title 49, Chapter 3, M.C.A.

D. MONTANA DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE RESPONSIBILITIES REQUIRED BY 23 CFR, PART 200

1. "Establish a Civil Rights Unit and designate a coordinator who has a responsible position and easy access to the Director. The coordinator shall be responsible for initiating and monitoring Title VI activities and preparing required reports."

2. The Civil Rights Bureau must be "adequately staffed to effectively implement the requirements."

E: CIVIL RIGHTS BUREAU (CRB) TITLE VI COORDINATOR RESPONSIBILITIES

1. Develop procedures for prompt processing and disposition of Title VI complaints.

2. Conduct Title VI reviews of program areas.

3. Conduct annual reviews of special emphasis program areas to determine effectiveness.

4. Review State program directives and include Title VI and related requirements.

5. Conduct Title VI training for State program and civil rights officials.

6. Prepare a yearly Title VI accomplishments report.

7. Submit an updated Title VI plan within Federal Highway Administration time frames.

8. Disseminate Title VI information to the general public.

9. Establish procedures for pre-grant and post-grant approval reviews of State programs and applicants; i.e., highway location, design and relocation, and persons seeking contracts with the State.

10. Establish procedures to identify and eliminate discrimination when found to exist.

11. Establish procedures for promptly resolving deficiency status.

F. GENERAL PROGRAM AREA RESPONSIBILITIES

Administration Division

Ensures Title VI compliance with MDT's procurement of supplies and services. Also ensures Title VI compliance in administration of the International Fuel Tax Agreement (IFTA) tax processing procedures, dealer and distributor licensing, and the fuel tax refund program.

Aeronautics Division

Ensures Title VI compliance which relates to maintenance of airports and the various components of airport infrastructure.

District Operations

Ensures Title VI compliance in the purchase of goods and services, public meetings, and contract requirements.

Engineering Division

Ensures Title VI compliance in all activities involving right-of-way, preconstruction, research, consultants, bid advertising and construction.

Environmental Services

Ensures all necessary environmental documentation meets the requirements of the National Environmental Policy Act (NEPA) and the Montana Environmental Policy Act (MEPA), including Community Impact Assessments.

Human Resources Division

Ensures Title VI compliance in the implementation of agency-wide Title VI requirements including the Disadvantaged Business Enterprise Program, the American With Disabilities Act, training activities and complaint investigations.

Maintenance Division

Ensures facilitation of the summer and winter maintenance of Montana's highway infrastructure in a fair and equitable manner.

Motor Carriers Services Division

Ensures Title VI compliance in all commercial vehicle licensing, registration, and permit issuance and enforcement.

Transportation Planning Division

Ensures Title VI compliance in the transportation planning process and in transit programs. This includes community transportation enhancement, regulatory compliance in public hearings, consultant selection, and Title VI reviews of appropriate cities, counties, transit providers and consultant contracts.

II. SPECIFIC AREA RESPONSIBILITIES

TRANSPORTATION PLANNING DIVISION

Transportation Planning Division provides a broad range of multi-modal transportation planning functions and analyses to enable project selection and programming for MDT's short and long range transportation and grant programs. The principal areas in this Division which have Title VI impact are planning, public involvement, contractual/consultant services procurement, grant/subgrant recipients, equipment procurement, transit, special studies and suballocated pass-through funding to governmental subdivisions.

The impacts of these areas are incorporated in the Process Handbook for Transportation Planning program description. At a minimum, Transportation Planning Division ensures that:

- Grant and sub-grant programs for non-governmental organizations are publicized through the State to assure that protected groups receive appropriate notification and are able to participate in identified programs;

- Existing statistical data identifying concentrations of protected group populations is used in the development of Department Public Involvement Strategies; and

- Procurement of consultant services and equipment will be accomplished in accordance with State and Federal law (see Purchasing section of this Plan).

The statewide transportation planning process includes the development, administration, and update of statewide highway, transit, rail and bicycle/pedestrian plans and programs in accordance with federal and state laws, regulations, and policies. The process relies heavily on cyclical and ongoing public involvement efforts to involve stakeholders, the public, and other state, tribal and local agencies and governments in the decision-making process. Products include plans, reports, and studies that guide MDT decision makers in carrying out the department's statutory responsibilities as the Montana agency responsible for comprehensive statewide transportation planning and policy.

Public Involvement Unit

The Public Involvement Unit is responsible to ensure all Montana citizens are aware of, and afforded the opportunity to participate in, public involvement activities (public meetings, comment periods, etc.) by providing a variety of announcement methods. Special formats of all written documents will be provided on request. Direct mail letters may also be used if a mailing list of interested/affected parties is available.

The unit may also coordinate public meetings. It will ensure that provisions are made for special meeting accommodations for protected groups or individuals (with sufficient notice to obtain it, ideally 48 hours). Accommodations include, but aren't limited to, translators, sign language interpreters, etc.

Occasionally the unit will moderate or facilitate public meetings. The unit will ensure that all protected groups attending these meetings are afforded the opportunity to participate in them.

Transit Section and Special Studies Section

The Transit Section and Special Studies Section are responsible for ensuring assisted benefits and related services for transit and rail, respectively, are made available and are equitably distributed. This is done by publicizing the availability of assistance in local and minority newspapers, newsletters, and direct mail; both Sections then solicit participation from throughout the State including the seven Indian reservations.

The Sections ensure that an opportunity to participate in the transit and rail planning and decision-making process is available through public hearings, town meetings, and/or opportunities to comment on consultant studies. Where conditions dictate because of language barriers, age, or other factors, interpreters will be used to aid those in need of the service to understand the proceedings.

They will also ensure that corrective and remedial action can be taken by all applicants and recipients of assistance from the Transit Section and special Studies Section to prevent discriminatory treatment of any beneficiary, or protected group. Complaint procedures are in place that will facilitate a resolution of a problem at the lowest possible.

The Sections will ensure that decisions on locations of services and facilities, and the level and quality of Transit and Rail services are made in a manner consistent with Title VI.

Other items ensured by the Transit and Special Studies Sections are:

- That data is available which identifies concentrations of Title VI protected populations within all urbanized areas and small urban areas;
- That MPO Title VI plans effectively address and comply with Title VI;
- That reviews of Section 5310 and 5311 transportation providers will be conducted on a three year rotational basis with one-third being reviewed each year;
- That reviews of MPOs will be conducted on a three-year rotational basis with one MPO being reviewed per year to ensure compliance with Title VI;

- Urban areas without formal transportation plans will be reviewed as appropriate or as changes in local federal-aid property projects may dictate; and

- That Title VI will be addressed in all studies and plans prepared by or paid for by the Transportation Planning Division.

Community Transportation Enhancement Bureau

The Community Transportation Enhancement Bureau includes two separate programs: Community Transportation Enhancement Bureau and The Bicycle and Pedestrian Transportation Program.

1. **Community Transportation Enhancement Bureau** sub-allocates funds to all local units of government within the state with a population of 1,000 or greater. Currently this includes all 56 counties and 51 towns and cities.

This program places the responsibility for compliance with all federal, state and local requirements upon local government, the final federal fund recipient.

2. **The Bicycle Pedestrian Transportation Program** is tasked with institutionalizing bicycle and pedestrian modes and to target bicycle-related and pedestrian improvements.

Monitoring

The Transportation Planning Division retains a Title VI Coordinator on staff. This Coordinator monitors Title VI and Disadvantaged Business Enterprise compliance in all Division areas by conducting Division internal reviews and external compliance reviews which include metropolitan planning organizations, transit providers, and urban areas as necessary.

Formal complaint investigations against program participants will be conducted by the local agency with assistance, as may be required, from the MDT Civil Rights Bureau. Formal complaints against a local government will be referred directly to the Civil Rights Bureau.

*****

ENGINEERING DIVISION

The Engineering Division is comprised of Preconstruction, Right-of-Way, Materials and Construction.

Preconstruction Bureau

Consultant Selection Procedures are intended to eliminate unfair advantage and provide equal economic opportunity for all qualified consultants.

A selection committee convenes for each request for proposal advertised. The committee reviews and evaluates consultant proposals selecting a short list of consultants. Final proposals from the short-listed firms are reviewed by the committee; final selection is made and concurrence is obtained from MDT's Director.

Disadvantaged Business Enterprise goals are established in proposed contracts prior to request for proposal announcements. Request for proposals are advertised in the major Montana newspapers including protected group newspapers. The advertisements request that all interested parties contact MDT to obtain informational packets. A firm is placed on the mailing list when packet information has been returned to the Preconstruction Bureau.

Specific Title VI language is included in all request for proposals and in all executed consultant contracts.

Monitoring

Title VI reviews to determine compliance with contract specifications are conducted on consultant contracts by the appropriate Engineering Title VI Representative. The Civil Rights Bureau monitors committee activities.

Right-of-Way Bureau

The Right-Of-Way Bureau ensures that appraisals, purchases, and sales are conducted on a non-discriminatory basis by standardization of procedures, uniformity of administration, and published information which concerns Title VI in brochures and public notices.

When relocation actions are necessary, affected individuals are informed of their rights at public hearings prior to the acquisition phase of project development. Distribution of brochures and formal written notices are provided at the beginning of negotiations and during the vacancy phase.

Fair housing requirements are covered in detail in MDT's Relocation Brochure, discussed with realtors and explained to affected individuals when offers are made.

When language or other barriers, such as age, are identified, Right-Of-Way personnel employ interpreters, tribal members, relatives and/or friends of the affected individual to assist with negotiations and other issues.

Real Estate Appraisals

When it becomes necessary to hire fee appraisers, MDT uses the State required contracted services procedures. Certified Disadvantaged Business Enterprise appraisers are solicited for these projects.

Negotiations

Right-Of-Way agents handle negotiations exclusively. A negotiation history is submitted for every contact with the owner. To ensure equal treatment of all customers, completed negotiations are reviewed by the Negotiation Supervisor and other Headquarters Right-Of-Way staff. Specific Title VI training is regularly provided to all Right-Of-Way agents.

Relocation Assistance and Advisor Services

All relocated persons are given assistance according to Right-Of-Way manual procedures. Documentation is maintained on all relocation assistance activities.

Relocation services are provided by MDT employees who are able to communicate with the person being relocated. In cases of language barriers or other factors, interpreters are used.

Randomly selected relocated persons are interviewed to ensure that appropriate assistance was provided.

Property Management

Issuance of 90-day notices, final notices, and extensions of occupancy are uniformly applied to all persons being relocated by a project. Rental rates are uniformly applied and delinquent tenants are treated in the same manner.

Monitoring

The Right-Of-Way Title VI Representative periodically reviews randomly selected files to ensure compliance with all required regulations.

Research Management Unit

The Research Management Unit is responsible for contracting research projects through its Research Program, conducting an Experimental Projects Program, and performing technology transfer activities related to both programs.

Solicitations for research projects are distributed to tribal governments, universities, public and tribal colleges, newspapers (including tribal papers); MDT Disadvantaged Business Enterprise and Consultant Design consultant lists; the electronic state bulletin board; and any group or individual who has either submitted an idea in the past or expressed an interest in being placed on the mailing list.

Research Management Unit contracts with various governmental entities to conduct research projects and with Montana State University to conduct the Local Technical Assistance Program. This program provides training and various materials to local governments in Montana.

MDT Purchasing Services Bureau or Consultant Design Section requirements are used to solicit and select private contractors to perform research projects

Monitoring

The Research Title VI Representative monitors mailing lists and conducts periodic reviews to ensure that protected groups have equal access to research opportunities information.

Construction Bureau

The Construction Bureau ensures that open, free and competitive bidding processes are in place by providing accessible locations and by assuring construction contracts are awarded on the basis of low bid, responsibility, responsiveness, bonding, insurance and Disadvantaged Business Enterprise requirement compliance.

Disadvantaged Business Enterprise goals are established in all federal-aid contracts prior to bid letting.

Prime contracts and subcontracts are reviewed to ensure inclusion of Title VI language and accomplishment of Disadvantaged Business Enterprise goals.

Contract Plans Section

Contract Plans Section edits, compiles and distributes bid packages for highway construction projects across the state. Advertising is accomplished via the Internet and electronic bulletin boards, in local and protected group newspapers, newspapers having major circulation throughout the State, and to plan rooms across the country.

Contract Plans Section staff provides support and training in the use and implementation of the mandatory electronic bidding system. Computers and printers are available for public use in the Contract Plans Section office.

Monitoring

Contract Plans Section's administrative staff evaluates the activities and practices of the bidding, advertising and distribution process by reviewing:

- ⇨ Special efforts to accommodate protected groups with regard to the physical location of the bid opening;

- ⇨ Training practices in the use and implementation of the mandatory electronic bidding system;

- ⇨ State and federal mandates that address legal advertising, with emphasis on communicating project information to protected groups;

- ⇨ All Title VI related documents included in bid packages, publications and legal advertisements; and

- ⇨ Emerging technological advances to provide for more equitable access to project information and support data using electronic communication.

The Construction Bureau's Title VI representative monitors the Bureau's activities by reviewing all contracts submitted by prime contractors and periodically reviewing Contract Plans' requirements.

*****

ENVIRONMENTAL SERVICES

The Engineering Unit of Environmental Services is responsible for all the environmental documentation which meets the requirements of National Environmental Policy Act and Montana Environmental Policy Act for transportation highway projects including Community Impact Assessments.

In Montana, the areas of environmental concern for Title VI issues are primarily on Indian reservations and urban areas which are categorized as follows:

1) Reservation lands
2) Tribal lands outside a reservation
3) Minority/low income neighborhoods

In all cases, the impact of transportation projects and alternatives is evaluated when projects involve neighborhoods. However, neighborhood cases are rare since most projects follow existing transportation corridors or are in rural non-developed areas.

After appropriate analysis, evaluation, and determination of mitigation for the impacts of a transportation project and alternatives on neighborhoods, the following statement with appropriate explanations and documentation will be incorporated into the final environmental report.

> "This project will not induce significant land use changes or promote unplanned growth. There will be no significant affects on access to adjacent properties or present traffic pattern. This project will not create disproportionately high and adverse human health or environmental effects on minority and low-income populations (**E.O. 12898**) and complies with Title VI of the *Civil Rights Act of 1964* (**42 U.S.C.2000d**)."

The following procedures are used in studying neighborhood impacts:

- ⇨ Sending requests to city/county governments, Indian tribes and the Bureau of Indian Affairs for information and Cooperating Agency status;

- ⇨ Coordinating requests and documentation for Indian reservations, tribal lands and other protected group populations with MDT Tribal Affairs Coordinator and/or the Civil Rights Bureau;

- ⇨ Determining if there is a protected group population that will be affected by the project, and identifying impacts. Identify appropriate avenues of mitigation;

- ⇨ Being present at public involvement activities;

- ⇨ Presenting mitigation steps at public involvement activities as necessary; and

- ⇨ Documenting for the National Environmental Policy Act and Montana Environmental Policy Act process.

The Engineering, Resource, and Hazardous Waste Bureaus of Environmental Services all contract for additional services to complete transportation projects. These contracts are normally awarded through the Consultant Design Section, Purchasing Services Bureau, or the State Department of Administration Purchasing Bureau (larger projects).

Monitoring

The Environmental Services Engineering Unit Chief reviews all Bureau work. The review covers the completeness, accuracy, and documentation of all studies relating to Title VI issues and their relationship with each project.

Major transportation project environmental documentation is also reviewed for overall content by Legal Services and various design sections of MDT.

*****

MAINTENANCE DIVISION

The Maintenance Division implements summer and winter maintenance of the State's highway infrastructure. Summer maintenance includes resurfacing, preventive maintenance and general road and right-of-way improvements. Winter maintenance is primarily concerned with snow removal and general roadway safety.

Service level guidelines are established by Maintenance Chiefs, District Administrators, and the Maintenance Division Administrator. These guidelines prescribe uniform service levels and winter hours of service for the traveling public.

Winter road reports are provided to the traveling public. Telecommunication Devices for the Deaf are available for public use.

Purchasing Services Bureau requirements are utilized when maintenance contracts are advertized and awarded.

Monitoring

Each District's Maintenance Supervisor monitors written reports, public comments, and performs road inspections to ensure protected groups receive equal road maintenance services.

*****

ADMINISTRATION DIVISION

The Administration Division consists of five bureaus; however, only the Accounting Services, Fuel Tax Administration and Management, and Purchasing Services Bureaus have Title VI impacts.

Accounting Services Bureau

The Accounting Services Bureau is responsible for International Fuel Tax Agreement reporting which includes distribution of tax returns and processing. Distribution of fuel tax refund applications, processing and payment of the refunds. Conduct problem resolution reviews to try to mitigate conflict before elevation to the hearings process. Computer-generated audits are selected to ensure protected groups are not selected more or less frequently than other citizens. Taxpayer training is provided on an annual basis.

Fuel Tax Administration and Management Bureau

The Fuel Tax Administration and Management Bureau is responsible for licensing, distribution of tax forms, reviewing various taxpayer and informational reports, conducting hearings of taxpayer appeals and revocation and/or suspension of licenses.

It selects at random and conducts compliance reviews to ensure protected groups are not selected more or less frequently than others.

The Bureau provides annual training for all licensees, and administers Alcohol Tax Incentive and Administration Act of 1983 as amended.

Purchasing Services Bureau

The Montana Department of Administration has delegated authority to procure supplies and services to the Purchasing Services Bureau.

The Purchase Services Bureau ensures all formal solicitations include approved Title VI language. The Bureau ensures solicitations are sent to appropriate vendors as prescribed by Montana law, including certified Disadvantaged Business Enterprise firms. Solicitations are available on the electronic bulletin board system and alternative accessible formats are available upon request to the Bureau.

Monitoring

The Title VI representative periodically reviews the International Fuel Tax Agreement program to ensure audits are selected and completed in a fair and equitable manner. Monitoring for Title VI compliance after issuance of a purchase order is the responsibility of the requesting party.

*****

MOTOR CARRIER SERVICES DIVISION

The Motor Carrier Services Division is responsible for commercial vehicle licensing, registration, permit issuance, and commercial vehicle enforcement of federal and state motor carrier laws and regulations. Motor Carrier Services' customers include interstate and intrastate commercial motor carriers, contractors, loggers, and farm trucking operations. This division issues commercial motor vehicle registrations, licenses, fees, and over-dimensional and overweight permits.

Instructional manuals are provided to the public and are available in alternate formats. Language explaining the availability of accommodations, including the Telecommunication Devices for the Deaf phone number, is printed on all public documents. The Trucker's Handbook provides an overview of motor carrier regulations and lists sources for obtaining additional information such as telephone and cell-phone numbers of permanent weigh stations and areas patrolled by each Motor Carrier Services Patrol Officer. It is available in both hard copy and on the Internet.

Administrative Rule changes are noticed for public hearing as required by statute. Informal meetings are conducted to solicit information pertaining to proposed legislation or rule changes and to inform and explain the proposed changes.

Motor Carrier Service Officers ensure that the motor carrier industry complies with all state and federal vehicle licensing, oversize and overweight regulations by inspecting documents and weighing vehicles at permanent weighing facilities and by random stops by Motor Carrier Services Patrol. Concentrated special assignments are also conducted in areas where no permanent weigh station facility is located or where a weigh station is easily bypassed.

Monitoring

The Division Title VI Representative periodically reviews procedures to ensure proper compliance with regulations.

*****

HUMAN RESOURCES DIVISION

Organizational Development Bureau

The Organizational Development Bureau administers MDT's safety and training programs. The Bureau receives some federal funds for training purposes, and also contracts for products and professional services using both federal and state special revenue funds.

The Bureau contracts or works with others to contract for products, training, and safety services using public and private sector providers, including the National Highway Institute. Requests for quotes and requests for proposals are handled by the Purchasing Services Bureau. All contracts contain the appropriate language for Title VI compliance.

Monitoring

The Bureau ensures that all contracts contain the Title VI provisions and that Disadvantaged Business Enterprise firms are notified of requests for proposals and bids for these services.

Civil Rights Bureau

The Civil Rights Bureau is responsible for developing and implementing the agency-wide Title VI Plan, conducting Division/District Title VI reviews (including recipients of pass-through funding), and management of the Disadvantaged Business Enterprise Program.

Disadvantaged Business Enterprise Program

The MDT Disadvantaged Business Enterprise Program has been approved by the Federal Highway Administration and regional offices.

To ensure that bidding opportunities are made available for minority and women-owned businesses, the Disadvantaged Business Enterprise Program Specialist will:

- ⇨ Seek out minority and women-owned businesses for certification;
- ⇨ Publish a directory of certified firms;

- ⇨ Monitor participation levels in federal-aid construction contracts and consultant contracts;

- ⇨ Participate in goal-setting meetings to establish goals on federal-aid construction projects and consultant contracts;

- ⇨ Monitor work performed by certified firms and prime contractors; and

- ⇨ Provide technical assistance to contractors.

*****

AERONAUTICS DIVISION

The Aeronautics Division oversees the maintenance of airports and the various components of airport infrastructure including visual and electronic navigation facilities and flying aids; fosters, promotes, and supervises aviation and aviation safety through educational efforts and programs; registers aircraft and pilots in accordance with Montana laws and regulations; and coordinates and supervises statewide aerial search and rescue operations.

In accordance with the maintenance and safety aspects of the Division's overall mission, it administers a loan and grant program to municipal governments to fund airport development projects.

The Division serves in a liaison capacity between the State and various entities including the U. S. Department of Transportation, other federal and state entities and commercial airlines to ensure the retention and continuation of airline services to the rural communities of the State.

Monitoring

The Aeronautics Administrative Officer ensures all contracts contain appropriate Disadvantaged Business Enterprise goals and appropriate Title VI language. The Administrative Officer also ensures public meetings are advertised in accordance with MDT policy and protected group persons are included in education programs offered by the Aeronautics Division.

*****

DISTRICT RESPONSIBILITIES

Each of the five Districts administers MDT's purchasing procedures connected with procuring, accounting, securing, and disbursing of all items and equipment purchased by MDT. District purchasing policy adheres to the Purchasing Bureau's Procedures Manual. In cases when leasing is required, the District will implement measures to ensure that protected groups have an equal opportunity to provide leased equipment or buildings.

Schedules of public meetings, open houses, and forums are coordinated between the District Engineering Services Supervisor and the Transportation Planning Division. The nearest location or town offering accessible facilities for all protected groups is selected. Consideration for meeting time and location is given to ensure all protected groups have an opportunity to participate. Documentation is maintained to ensure these considerations have been accomplished.

Monitoring

A. The District Purchasing Agent and the District Centralized Services Supervisor are responsible for monitoring the purchase orders and agreements to ensure they comply with Title VI requirements.

B. District Construction personnel are responsible for the monitoring of Title VI provisions in all construction documents (state and contractor) and operations.

C. Persons scheduling public meetings, open houses, and forums are responsible for Title VI compliance; however, the District Centralized Services Supervisor is responsible for periodic monitoring of this activity.

D. The District Centralized Services Supervisor ensures appropriate Title VI language is contained in contracts issued by the District.

III. TITLE VI COMPLAINT PROCEDURES

III. TITLE VI COMPLAINT PROCEDURES

This section outlines the Title VI complaint procedures; however, it does not deny the complainant the right to file formal complaints with the Montana Human Rights Commission, Equal Employment Opportunity Commission, Federal Highway Administration, or to seek private counsel for complaints alleging discrimination. Intimidation or retaliation of any kind is prohibited by law.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, sex, or national origin in programs receiving federal financial assistance. The Environmental Justice Act of 1994 prohibits discrimination based on income status.

PROCEDURE

1. Any person believing they have been subjected to discrimination based on race, color, sex, national origin or income status may file a written complaint with the Montana Department of Transportation's Civil Rights Bureau. Federal law requires complaints be filed within 180 calendar days of the last alleged incident.

2. Within five working days of receipt of a written complaint the Civil Rights Bureau Chief will notify the Human Resources Division Administrator and the MDT Director of the complaint.

3. Within 15 working days of complaint receipt an investigation by the Civil Rights Bureau will begin. The Division/District Equal Employment Opportunity Representative may participate in the investigation.

4. A written investigation report will be prepared by the investigator. The report shall include a narrative description of the incident, identification of persons interviewed, findings, and recommendations for disposition.

5. The Civil Rights Bureau Chief will discuss the report and recommendations with the Human Resources Division Administrator. A copy of the report will be provided to the complainant and the respondent. Each will have five working days from receipt of the report to respond. If either party responds negatively or has additional information to provide, an informal meeting will be arranged by the Human Resources Division Administrator. If neither party responds, the report will be forwarded to the MDT Director for final action.

6. The final determination will be forwarded to the Federal Highway Administration, the complainant, and the respondent.

7. If the complaint cannot be resolved by MDT, the complainant shall be notified of all appeal rights pursuant to 49 CFR 21.

TITLE VI COMPLAINT FORM

Montana Department of Transportation
Civil Rights Bureau
2701 Prospect Avenue, Helena, MT 59620-1001
(406) 444-6331
TTY (800)335-7592 or (406)444-7696

File #_____

BASIS FOR COMPLAINT	
Race	Gender (male__ female__)
Disability	Income Status (Environmental Justice)
National Origin (refers to parental country of origin)	Religion

Describe nature of complaint. Please provide specific information identifying why you believe discrimination has occurred. If possible provide dates, times, witness names, addresses, and telephone numbers. Also include what kind of resolution you believe is appropriate. Use additional sheets of paper if necessary.

_____

_____

_____

_____

_____

_____ _____

(SIGNATURE) **(DATE)**

IV. STANDARD DOT TITLE VI ASSURANCES

*NOTE: Amended in 1988 to include gender as a protected group.

IV. STANDARD DOT TITLE VI ASSURANCES

The State of Montana, (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the "Act"), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of sex, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations, a copy of which is attached.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its Federal-aid Highway Program:

1. That the Recipient agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal-aid Highway Program and, in adapted form in all proposals for negotiated agreements:

The (State highway department) in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of sex, race, color, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.

4. That the clauses of Appendix B of this assurance shall be included as covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property, or an interest in real property, the assurance shall extend to rights to space on, over or under such property.

7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal-aid Highway Program; and (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under the Federal-aid Highway Program.

8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the programs except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.

9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that it, other recipients, subgrantees, contractors, sub-contractors, transferees, successors in interest, and other participants of Federal financial assistance under such program, will comply with all requirements imposed by, or pursuant to, the Act, the Regulations, and this assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation under the Federal-aid Highway Program and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal-aid Highway Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipients.

GEORGE VUCANOVICH
Chairman, Montana Highway Commission

January 1971
(Date)

Attachments
Appendices A, B, and C
Department of Transportation Title VI Regulations

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time-to-time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract

(2) Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of sex, race, color, or national origin.

(4) Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State highway department on the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the contractor's non-compliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

(a) withholding of payments to the contractor under the contract until the contractor complies; and/or

(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State highway department to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the State of Montana will accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of Federal Aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation, and also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter referred to as the "Regulations") pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the State of Montana all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the State of Montana, and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the State of Montana, its successors and assigns.

The State of Montana, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of sex, race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]* (2) that the State of Montana, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this deed.*

*Reverter clause and related language to be used only when it is determined that such clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX C

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State of Montana, pursuant to the provisions of Assurance 6(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for him/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above-nondiscrimination, covenants, the State of Montana shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above-nondiscrimination covenants, the State of Montana shall have the right to re-enter said lands and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Montana and its assigns.

> * Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the State of Montana, pursuant to the provisions of Assurance 6(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for him/herself, his/her personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of sex, race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise

subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of sex, race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) Shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above-nondiscrimination covenants, the State of Montana shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above-nondiscrimination covenants, the State of Montana shall have the right to re-enter said land and facilities thereon, and the above-described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State of Montana, and its assigns.

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

V. 23 CFR - PART 200

TITLE VI PROGRAM AND RELATED STATUTES

V. 23 CFR - PART 200
TITLE VI PROGRAM AND RELATED STATUTES
Implementation and Review Procedures

Section:
200.1 Purpose.
200.3 Application of this part.
200.5 Definitions
200.7 Federal Highway Administration Title VI policy.
200.9 State highway agency responsibilities.
200.11 Procedures for processing Title VI reviews.
200.13 Certification acceptance.

Authority: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to 2000d - 4; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 3601 - 3619; 42 U.S.C. 4601 to 4655; 23 U.S.C. 109(h); 23 U.S.C. 324.

Source: 41 FR 53982, Dec. 10, 1976, unless otherwise noted.

§200.1 Purpose:

To provide guidelines for: (a) Implementing the Federal Highway Administration (FHWA) Title VI compliance program under Title VI of the Civil Rights Act of 1964 and related civil rights laws and regulations; and (b) Conducting Title VI program compliance reviews relative to the Federal-aid highway program.

§200.3 Application of this part:

The provisions of this part are applicable to all elements of FHWA and provide requirements and guidelines for State highway agencies to implement the Title VI Program requirements. The related civil rights laws and regulations are listed under §200.5(p) of this part. Title VI requirements for 23 U.S.C. 402 will be covered under a joint FHWA/NHTSA agreement.

§200.5 Definitions:

The following definitions shall apply for the purpose of this part:

(a) **Affirmative action**. A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.

(b) **Beneficiary**. Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program; i.e., relocatees, impacted citizens, communities, etc.

(c) **Citizen participation**. An open process in which the rights of the community to be informed, to provide comments to the Government, and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

(d) **Compliance**. That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.

(e) **Deficiency status**. The interim period during which the recipient State has been notified of deficiencies, has not voluntarily complied with Title VI Program guidelines, but has not been declared in noncompliance by the Secretary of Transportation.

(f) **Discrimination**. That act (or action) whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, sex, or national origin, has been otherwise subjected to unequal treatment under any program or activity receiving financial assistance from the Federal Highway Administration under Title 23 U.S.C.

(g) **Facility**. Includes all, or any part of, structures, equipment or other real or personal property, or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alternation or acquisition of facilities.

(h) **Federal assistance**. Includes:

(i) Grants and loans of Federal funds;

(ii) The grant or donation of Federal property and interests in property;

(iii) The detail of Federal personnel;

(iv) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and

(v) Any Federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

(i) **Noncompliance**. A recipient has failed to meet prescribed requirements and has shown an apparent lack of good faith effort in implementing all of the Title VI requirements.

(j) **Persons**. Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: "White not of Hispanic origin", "Black not of Hispanic origin", "Hispanic", "Asian or Pacific Islander", "American Indian or Alaskan Native." Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

(k) **Program**. Includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

(l) **State Highway Agency**. That department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term "State" would be considered equivalent to State highway agency if the context so implies.

(m) **Program area officials**. The officials in FHWA who are responsible for carrying out technical program responsibilities.

(n) **Recipient**. Any State, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term "recipient" does not include any ultimate beneficiary under any such program.

(o) **Secretary**. The Secretary of Transportation as set forth in 49 CFR 21.17(g)(3) or the Federal Highway Administrator to whom the Secretary has delegated his/her authority in specific cases.

(p) **Title VI Program**. The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited to only Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the

extent that they prohibit discrimination on the grounds of race, color, sex, or national origin in programs receiving Federal financial assistance of the type subject to Title VI itself. These Federal statutes are:

(i) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d - d4 (49 CFR part 21; the standard DOT Title VI assurances signed by each State pursuant to DOT Order 1050.2; Executive Order 11764; 28 CFR 50.3);

(ii) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 - 4655) (49 CFR part 25; Pub. L. 91 - 646);

(iii) Title VII of the Civil Rights Act of 1964, amended 1974 (42 U.S.C. 3601 - 3619);

(iv) 23 U.S.C. 109(h);

(v) 23 U.S.C. 324;

(vi) Subsequent Federal-Aid Highway Acts and related statutes.

§200.7 Federal Highway Administration Title VI Policy

It is the policy of the Federal Highway Administration to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR part 21; and related statutes and regulations.

§200.9 State Highway Agency Responsibilities

(a) State assurances in accordance with Title VI of the Civil Rights Act of 1964.

(i) Title 49, CFR Part 21 (Department of Transportation Regulations for the implementation of Title VI of the Civil Rights Act of 1964) requires assurances from States that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the recipient receives Federal assistance from MDT of Transportation, including the Federal Highway Administration.

(ii) Section 162a of the Federal-Aid Highway Act of 1973 (section 324, title 23 U.S.C.) requires that there be no discrimination on the ground of sex. The Federal Highway Administration considers all assurances heretofore received to have been

amended to include a prohibition against discrimination on the ground of sex. These assurances were signed by the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa. The State highway agency shall submit a certification to the Federal Highway Administration indicating that the requirements of section 162a of the Federal-Aid Highway Act of 1973 have been added to its assurances.

(iii) The State highway agency shall take affirmative action to correct any deficiencies found by the FHWA within a reasonable time period, not to exceed 90 days, in order to implement Title VI compliance in accordance with State-signed assurances and required guidelines. The head of the State highway agency shall be held responsible for implementing Title VI requirements.

(iv) The State program area officials and Title VI Specialist shall conduct annual reviews of all pertinent program areas to determine the effectiveness of program area activities at all levels.

(b) State actions.

(i) Establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the State highway agency. This unit shall contain a Title VI Equal Employment Opportunity Coordinator or a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports;

(ii) Adequately staff the civil rights unit to effectively implement the State civil rights requirements;

(iii) Develop procedures for prompt processing and disposition of Title VI and Title VII complaints received directly by the State and not by FHWA. Complaints shall be investigated by State civil rights personnel trained in compliance investigations. Identify each complainant by race, color, sex, or national origin; the recipient; the nature of the complaint; the dates the complaint was filed and the investigation completed; the disposition; the date of the disposition; and other pertinent information. Each recipient (State) processing Title VI complaints shall be required to maintain a similar log. A copy of the complaint, together with a copy of the State's report of investigation, shall be forwarded to the FHWA division office within 60 days of the date the complaint was received by the State;

(iv) Develop procedures for the collection of statistical data (race, color, religion, sex, and national origin) of participants in and beneficiaries of State highway programs; i.e., relocatees, impacted citizens and affected communities;

(v) Develop a program to conduct Title VI reviews of program areas;

(vi) Conduct annual reviews of special emphasis program areas to determine the effectiveness or program area activities at all levels;

(vii) Conduct Title VI reviews of cities, counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of Federal-aid highway funds;

(viii) Review State program directives in coordination with State program officials and, where applicable, include Title VI and related requirements;

(ix) The State highway agency Title VI designee shall be responsible for conducting training programs on Title VI and related statutes for State program and civil rights officials;

(x) Prepare a yearly report of Title VI accomplishments for the past year and goals for the next year;

(xi) Beginning October 1, 1976, each State highway agency shall annually submit an updated Title VI implementing plan to the Regional Federal Highway Administrator for approval or disapproval;

(xii) Develop Title VI information for dissemination to the general public and, where appropriate, in languages other than English;

(xiii) Establishing procedures for pre-grant and post-grant approval reviews of State programs and applicants for compliance with Title VI requirements; i.e., highway location, design and relocation, and persons seeking contracts with the State;

(xiv) Establish procedures to identify and eliminate discrimination when found to exist; and

(xv) Establishing procedures for promptly resolving deficiency status and reducing to writing the remedial action agreed to be necessary, all within a period not to exceed 90 days.

§200.11 Procedures for processing Title VI reviews.

(a) If the regional Title VI review report contains deficiencies and recommended actions, the report shall be forwarded by the Regional Federal Highway Administrator to the Division Administrator, who will forward it with a cover letter to the State highway agency for corrective action.

(b) The division office, in coordination with the Regional Civil Rights Officer, shall schedule a meeting with the recipient, to be held not later than 30 days from receipt of the deficiency report.

(c) Recipients placed in a deficiency status shall be given a reasonable time, not to exceed 90 days after receipt of the deficiency letter, to voluntarily correct deficiencies.

(d) The Division Administrator shall seek the cooperation of the recipient in correcting deficiencies found during the review. The Federal Highway Administration officials shall also provide the technical assistance and guidance needed to aid the recipient to comply voluntarily.

(e) When a recipient fails or refuses to voluntarily comply with requirements within the time frame allotted, the Division Administrator shall submit to the Regional Administrator two copies of the case file and a recommendation that the State be found in noncompliance.

(f) The Office of Civil Rights shall review the case file for a determination of concurrence or nonoccurrence with a recommendation to the Federal Highway Administrator. Should the Federal Highway Administrator concur with the recommendation, the file is referred to MDT, Office of the Secretary, for appropriate action in accordance with 49 CFR.

§200.13 Certification acceptance.

Title VI and related statutes requirements apply to all State highway agencies. States and Federal Highway Administration divisions operating under certification acceptance shall monitor the Title VI aspects of the program by conducting annual reviews and submitting required reports in accordance with guidelines set forth in this document.

VI. IMPACTS OF THE CIVIL RIGHTS RESTORATION ACT OF 1987 ON FEDERAL HIGHWAY ADMINISTRATION

NOTE: The Restoration Act applies to all Federal Agency programs nationwide; however, FHWA is the only Agency who has provided written implementation guidance.

VI. IMPACTS OF THE CIVIL RIGHTS RESTORATION ACT OF 1987 ON FHWA PROGRAMS

September 2, 1992

1. PURPOSE. To provide guidance to Federal Highway Administration (FHWA) field officials, State highway agencies (SHAs), their subrecipients, and contractors regarding the nondiscrimination requirements of the Civil Rights Restoration Act of 1987.

2. BACKGROUND

   a. The Supreme Court's decision in the case of Grove City College v. Bell, 465 U.S. 555 (1984), limited the reach of Federal agency nondiscrimination requirements to those parts of a recipient's operations which directly benefitted from Federal assistance. The Civil Rights Restoration Act of 1987 clarified the intent of Congress to include all programs and activities of Federal-aid recipients, subrecipients and contractors. This statute clarified the intent of Congress as it relates to the scope of Title VI of the Civil Rights Act of 1964 and related nondiscrimination statues.

   b. Nondiscrimination programs require that Federal-aid recipients, subrecipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, where those programs and activities are federally funded or not. The factors prohibited from serving as a basis for action or inaction which discriminates include race, color, national origin, sex, age, and handicap/disability. The efforts to prevent discrimination must address, but not be limited to a program's impact, access, benefits, participation, treatment, services, contracting opportunities, training opportunities, investigations of complaints, allocations of funds, prioritization of projects, and the functions of right-of-way, research, planning, and design.

   c. Authorities for nondiscrimination include but are not limited to: Title VI of the Civil Rights Act of 1964, the Age Discrimination Acts of 1967 and 1975, Section 504 of the Rehabilitation Acts of 1973, the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, and Title 23, United States Code, Section 324.

3. GUIDANCE

   a. The Civil Rights Restoration Act of 1987 amended each of the affected statutes by adding a section defining the word "program" to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives Federal financial assistance.

b. If a unit of a State or local government is extended Federal aid and distributes such aid to another governmental entity, all of the operations of the entity which distributes the funds and all of the operations of the department or agency to which the funds are distributed are covered.

c. Corporations, partnerships, or other private organizations or sole proprietorships are covered in their entirety if such an entity receives Federal financial assistance which is extended to it as a whole or if it is principally engaged in certain types of activities.

4. ACTION REQUIRED

a. FHWA field officials:

(i) Inform the States of the existence of the Civil Rights Restoration Act of 1987;

(ii) Provide guidance and technical assistance to SHAs upon request;

(iii) Inform States of the need to incorporate language in the next scheduled update of their Nondiscrimination ("Title VI") Plans indicating that they are aware of the scope of the nondiscrimination provisions and that they have incorporated a process to inform persons involved in or affected by all of their programs and activities of their rights under Title VI and related nondiscrimination statutes;

(iv) Provide and/or coordinate training addressing nondiscrimination program requirements;

(v) Provide guidance on how nondiscrimination complaints will be handled; and

(vi) If a complaint of discrimination is received from a person who believes that he or she has been subjected to discrimination under any program or activity of a recipient, subrecipient, or contractors, whether Federal-aid funds are involved in a particular program or activity or not, immediately transmit the complaint to the Director, Departmental Office of Civil Rights, and send a copy of the complaint to HCR-20.

b. State transportation agencies:

(i) Incorporate appropriate language in updates of Non-discrimination ("Title VI") Plans to ensure that persons affected by or involved in all of a State's programs and activities are aware of their rights to not be subjected to discrimination based on race, color, sex, national origin, age, or handicap/disability;

(ii) Ensure that persons who believe they have been subjected to discrimination are made aware of the avenues of redress available to them and that they are provided advice on the process;

(iii) Monitor activities and investigate complaints filed against Federal-aid subrecipients and contractors. The SHAs are also responsible for preventing discrimination in all of their own programs and activities and attempting to informally resolve complaints filed against them throughout the complaint process;

(iv) Where a complainant lodges a complaint against the SHA, the Federal Highway Administration will conduct or contract for the investigation or, if a class action complaint, a review;

(v) In instances where the complaint is against a contractor, subcontractor, or subrecipient, the Federal Highway Administration can defer to the appropriate SHA to schedule and conduct an investigation, although, initially, involvement by Federal Highway Administration may be appropriate to ensure the adequacy of the investigation.

The Montana Department of Transportation (MDT) attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the department. Alternative accessible formats of this document will be provided upon request. For further information, please contact:

Civil Rights Bureau
Department of Transportation
2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001
(406) 444-6331 Phone
(406) 444-7685 FAX
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